

ESTTA Tracking number: **ESTTA243225**

Filing date: **10/17/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92048334
Party	Defendant Robert Austin Burns, Jr.
Correspondence Address	Alicia D. Gaddy DUNGAN & ASSOCIATES, P.A. One Rankin Ave., Third Floor Asheville, NC 28801 UNITED STATES agaddy@dunganlaw.com
Submission	Request to Withdraw as Attorney
Filer's Name	Alicia D. Gaddy
Filer's e-mail	agaddy@dunganlaw.com
Signature	/Alicia D. Gaddy/
Date	10/17/2008
Attachments	Motion to Withdraw.pdf ( 3 pages )(10632 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration No. 2,945,099

For the Mark: SUPERMAG

Date Registered: April 26, 2005

RA Brands, L.L.C.,	)	
	)	Cancellation No. 92048334
Petitioner,	)	
	)	
v.	)	MOTION TO WITHDRAW
	)	AS COUNSEL
Robert Austin Burns, Jr.,	)	
	)	
Registrant.	)	
	)	

NOW COMES Alicia D. Gaddy (“Counsel for Registrant”), counsel of record for Registrant Robert Austin Burns, Jr., pursuant to 37 CFR 10.40, and hereby petitions the Trademark Trial and Appeal Board to allow her Motion to Withdraw as Counsel for Robert Austin Burns, Jr. in the above-referenced matter.

In support of this Motion, Counsel for Registrant shows unto the United States Trademark Trial and Appeal Board as follows:

- (1) Registrant has insisted on a course of action that is contrary to the judgment and advice of counsel, and Registrant has repeatedly refused to follow the advice of Counsel for Registrant regarding key issues in this matter. Counsel for Registrant believes that Registrant has lost faith in Counsel for Registrant, and Counsel for Registrant believes that this will render it unreasonably difficult for counsel to carry out representation effectively in this matter (37 CFR 10.40(c)(iv));
- (2) Registrant has failed to pay numerous bills for legal services provided by Counsel for Registrant for an unreasonable period of time, and Registrant has not made any payment on monthly legal bills for the past three months, and has also failed to make full payment on prior bills, which remain outstanding. Further, Registrant has been unresponsive to billing and repeated attempts by Counsel for Registrant to obtain payment from Registrant (37 CFR 10.40(c)(vi));

- (3) Due to the refusal of Plaintiff to follow counsel's advice, Registrant's apparent loss of faith in Counsel for Registrant, and the failure of Registrant to pay for the legal services of Counsel for Registrant, Counsel for Registrant believes that she can no longer effectively represent Plaintiff in this matter;
- (4) Counsel for Registrant believes that she has complied with the requirements of 37 CFR 10.40(a); and
- (5) Counsel for Petitioner, R.A. Brands, LLC, has indicated that Petitioner does not oppose this Motion.

WHEREFORE, Alicia D. Gaddy respectfully prays the Court allow her to Withdraw as Counsel of Record for Registrant Robert A. Burns, Jr. in this matter.

THIS 17<sup>th</sup> day of October, 2008.

THE DUNGAN LAW FIRM, P.A.

/s/Alicia D. Gaddy

By: Alicia D. Gaddy

N.C. Bar No. 35288

Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I, Alicia Gaddy, do hereby certify that a true and correct copy of the foregoing Motion to Withdraw as Counsel was served upon the below-listed parties by depositing a copy of the same in the United States Mail in a postpaid properly addressed wrapped on this the 17<sup>th</sup> day of October, 2008.

Mr. Robert Burns  
Austin Outdoor Exclusives  
4004 Country Oaks Drive  
Waxhaw, North Carolina 28173

Mr. Jake Wharton  
Womble Carlyle Sandridge Rice PLLC  
1 West Fourth Street  
Winston Salem, NC 27101

/s/Alicia D. Gaddy  
Alicia D. Gaddy